1750 K Street NW Suite 600 Washington, DC 20006

Mark J. O'Connor oconnor@l-olaw.com Tel 202/887-6230 Fax 202/887-6231

December 6, 2004

Ms. Marlene Dortch, Secretary Federal Communications Commission The Portals, TW-A325 445 12th Street, SW Washington, DC 20554

Re: Ex Parte Presentation – Review of the Section 251 Unbundling Obligations of

Incumbent LECs (CC Docket Nos. 01-338, 96-98, 98-147); Unbundled Access to

Network Elements (WC Docket 04-313)

Dear Ms. Dortch:

On December 3, 2004, Dave Baker, Vice President, Law and Public Policy for EarthLink, Inc., had a telephone conversation with Mr. Christopher Libertelli, Senior Legal Advisor to Chairman Powell, regarding the above-referenced dockets. In addition to positions previously filed in the above-captioned dockets, EarthLink urged the Commission to reinstate the line sharing UNE in the anticipated December vote on UNE permanent rules. Mr. Baker also emphasized that such reinstatement would be legally sustainable.

Pursuant to the Commission's rules, one copy of this memorandum is being filed electronically in each of the above-referenced dockets for inclusion in the public record. Please do not hesitate to call me if you have any questions.

Respectfully submitted,

/s/

Mark J. O'Connor Counsel for EarthLink, Inc.